201507102 Chris Aybar

After a summer block party had concluded in a park in the Bronx, the crowd spilled into a nearby residential street. Officers arrived with instructions to clear the area. As the officers did so, one officer was allegedly assaulted by a civilian, who then entered a residential building. The officers put out a 10-85 (call for assistance) and a large number of officers arrived. A group of these officers, including PO Chris Aybar, entered the building after the civilian. When the officers reached the upper hallway where the person had gone, they opened the door, and according to three civilian witnesses, pulled the person they believed had assaulted an officer out of the doorway by the hair and then tackled the person. These officers were never identified.

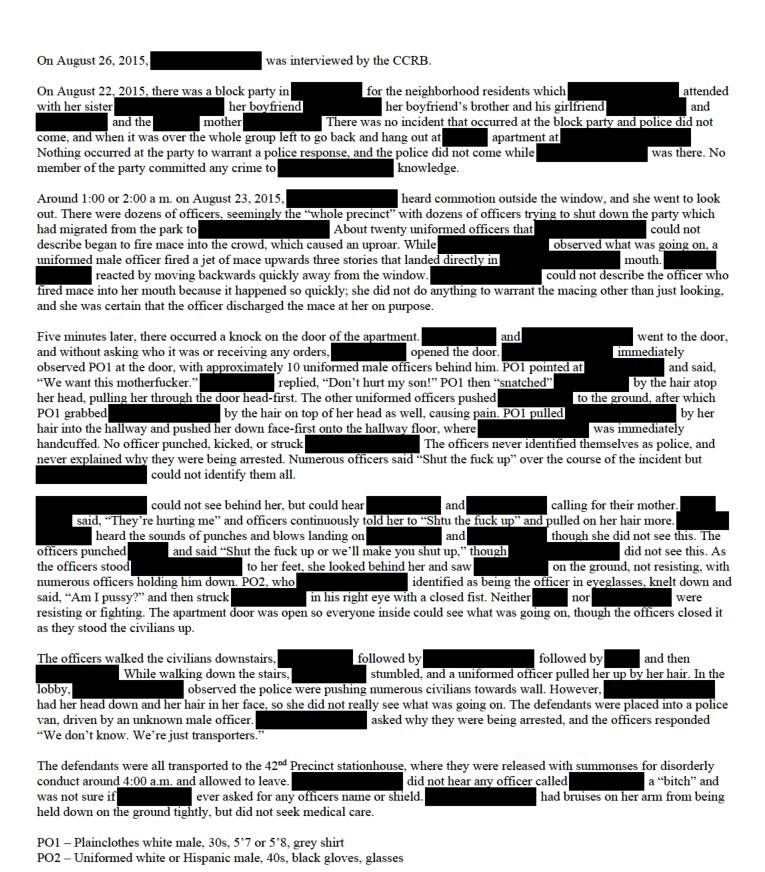
PO Aybar had entered the building but had not gone upstairs, and eventually issued two summonses. PO Aybar's testimony regarding the incident was dramatically inconsistent. At one point, she stated that both of the people she issued summonses to were blocking a door and failed to move, then later said that neither had been blocking a door. She stated that she spent the whole time with her partner, then stated they had been separated early in the encounter. While she transported a number of people to the precinct, she stated that none had been injured and none had complained, but video showed that at least one person had been noticeably bleeding before being arrested. She issued two summonses during the incident but failed to articulate a reason for giving them that was not contradicted elsewhere.

The CCRB substantiated an allegation that PO Aybar had issued a retaliator summons, and found that she had made false statements in her CCRB interview.

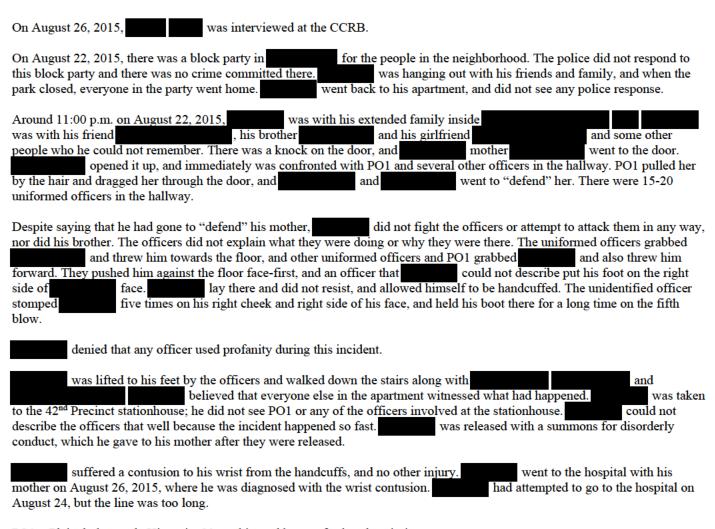
The NYPD disciplined PO Aybar by giving her a Command Discipline A. She still works in the 42nd Precinct.

| On August 26, 2015, was interviewed at the CCRB. |
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| On August 22, 2015, the neighborhood had their annual Children's Day party This is set up every year by the and there is a large barbecue where several hundred people hang out, eat food, and the children can ride rented horses and play on a bouncehouse. Every year the park closes at 10:00 p.m. and the police come to make sure everyone leaves safely. This year went as normal— his girlfriend his brother his stepbrother and stepfather and some other neighborhood friends that knows only as "and "and "had drank "a few beers" but by the end of the party the effects had all worn off and he was not intoxicated. At 10:00 p.m. or so the police came to shut the party down and extended family went home. |
| It was shortly after 11:00 p.m. when heard a commotion outside and went to the window, where he observed from a distance of three stories an NYPD paddy wagon pulling up, and about 25 civilians standing outside. When the paddy wagon opened up and disgorged 10-15 officers, mostly in uniform, but also one (PO1) in plainclothes. Four or five uniformed officers immediately began discharging mace at the crowd, who shouted and ran inside fired the mace and did not know if any crime had occurred. It is could not identify or describe the officers who fired mace or the civilians who were struck, but stated the officers were all uniformed males and the civilians were "neighborhood people." |
| Five minutes later, there was a loud pounding on the door. narrow hallway, while and observed what happened. was, and saw that PO1 was standing in the hallway with 10-15 uniformed male officers behind him. Without giving any order or explanation, PO1 shouted, "Come here, bitch," and then PO1 reached his left arm out and seized by the hair on top of her head. PO1 pulled her forward through the threshold of the door by her hair, and the uniformed officers laid hands on her and forced her down face-first to the ground. PO1 then reached out through the door and seized by the hair and treated her the same – pulling her head-first through the door and throwing her face-first onto the ground. observed this occur from a distance of six-to-eight feet. |
| shouted, "Why did you do that, what are you guys doing." walked forward, with immediately behind him, and entered the hallway where Numerous officers that down to the ground. I did not resist, fight back, kick, or punch in any way, as he was so shocked by the amount of force. Details of this were blurry because was upset and everything happened so fast. While on the ground and uncuffed, numerous officers punched and kicked to his left side, legs, and shoulder, but them. |
| did see one that he recognizes as having gratuitously punched him – at one point, "Y'all don't hit that hard." At this point, PO2 then punched him twice on his right eye with a closed fist. PO2 was the only office that could describe, and was the officer who punched him hardest. After PO2 punched asked him to give his name and shield so he could file a complaint. PO2 replied, "Shut the fuck up." was then handcuffed and stood to his feet; he looked behind him and saw that was also in handcuffs and being stood up. All the officers involved were uniformed males, unknown race, unknown further description. PO1 never hit or struck Numerous officers said "Shut the fuck up" but could not describe them. also briefly saw unknown uniformed officers hitting on an unknown part of his body while on the ground, and saying, "Shut the fuck up, it's supposed to hurt." |
| The officers never explained why they were taken out. again denied that they fought back or defended themselves from the officers, stating that "There wasn't even a chance to fight back, it all happened in like three seconds." Nobody else in the house was taken out, but everyone else witnessed closely what happened to them. and were walked down the three flights of stairs back out to the courtyard, where they were placed in the |

| NYPD paddy wagon. An unknown male officer drove the paddy wagon, and that was the last that PO2, and the original responding officers. |
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| At the stationhouse, which they were released with summonses for disorderly conduct, failure to disperse, and sent home. PO1 again; asked a female uniformed cell attendant for the names of the officers who arrested them, but she responded, "I have no idea what happened, I'm just the transporter." |
| provided some photographs of his injuries, including a bloody eyeball, a cut to the right leg, what appears to be abraded skin on his left rib cage, and various other bruises that alleged were caused by being tossed to the ground and kicked and punched. The bloody eyeball is a result of PO2 punching him twice to the face. went to the hospital that day of the interview (August 26, 2015) but did not go to the hospital in regards to the injjries |
| provided two videos of the scene outside of taken by a neighborhood friend whose name does not know. The video depicts PO1 in a grey shirt standing behind whose lip is bleeding. The sound of a taser discharge is heard in the final seconds of the video. The scene is extremely chaotic, with numerous civilians screaming and repeating, "He fucking hit me, he hit me." |
| PO1 – Plainclothes Hispanic male, 30s, Yankees hat on backwards, grey shirt, unknown height, unknown other characteristics PO2 – Uniformed Hispanic male, 30s, glasses, no further Other officers were all uniformed males, unknown age, unknown race, unknown other descriptions |



| On August 26, 2015, was interviewed at the CCRB. |
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| Earlier on August 22, 2015, there was a block party in had attended the block party, but had gone home by the time it ended. There was no police interaction during the block party, and no crimes committed as far as was aware. Sometime after midnight, was inside with her family and was getting ready to go to sleep. had no shoes on and was wearing shorts and a blouse. |
| heard a loud bang on the door, and she went to open it. thought it was probably kids from the neighborhood because her sons have a lot of friends, so she did not think to ask who it was. No one behind the door gave any orders or identified themselves. opened the door and observed PO1 surrounded by numerous plainclothes and uniformed officers in the hallway. PO1 immediately grabbed by the hair at the very top of her head, causing pain and alarm, and pulled her forward into the hallway. PO1 forced to the ground face-first by her hair, and all the officers got on top of her and handcuffed her. was not resisting, and was in total shock about what was happening. |
| There was "just so much commotion" for to clearly describe what was going on. was immediately thrown to the floor and the officers held her face down to the ground with their feet on her back, so she could not really see what was going on in the hallway. was handcuffed and could not move. heard and shout, "Don't treat my mother that way. That's my mom." could not see anything, but could hear that officers were "hitting" and and had taken them to the ground. |
| When the officers let her up, saw that told the officers, "Let me put my blouse down, I don't want to go to the street like that," but they just roughly hurried her down the stairs. could not see officers hitting or striking anyone because she could not see anything. did not hear any civilian ask an officer for his name or shield; she stated she would not recognize any officers if she was shown an array |
| Officers did not explain why they were being arrested, and said "They did not even talk to us." said it was like being kidnapped - they were just grabbed and thrown down and handcuffed; it happened quickly, and officers never said what they were doing. was taken to the stationhouse along with the rest of her family, and could not describe anything that occurred along the way. provided the summons given to her and to indicating they were charged with disorderly conduct, failure to disperse. |
| PO1 – Plainclothes light-skinned male, unknown age, unknown details stated she could not describe him because she barely got a chance to see him. said to ask her children for a better description. |



PO1 - Plainclothes male Hispanic, 30s, t shirt and hat, no further description

On September 23, 2015, PO Aybar was interviewed at the CCRB.

impeding the way. PO Aybar did not observe any injuries on

PO Aybar did not bring her memo book because she "did not know she had to" and will thus fax the memo book at her earliest opportunity.

PO Aybar's union representative, Brian Welsome, became disruptive at numerous points during the interview, interrupting the conversation and video footage to express that the CCRB was biased, that discourtesy did not matter and inquiring about it was "laughable," that the interview consisted of "meandering nonsense," and that the CCRB is blaming the officers for actions taken during a drunken riot. Mr. Welcome became disruptive at 16:03, 19:59, 24:50, and 28:26. PO Aybar did not have a memo book and as such, her memory of the chronology of the incident was imperfect. PO Aybar was recounting the incident from her memory. After Mr. Welsome expressed his opinions, PO Aybar appeared to grow more recalcitrant about offering details, and more frequently stated that she could not recall facts and details about this incident.

On August 22-23, 2015, PO Aybar was assigned to foot post 5 at a where a party had been going on all day. It was midnight, PO Aybar received a transmission to respond to where a party had been going on all day. It was midnight, which meant it was time to disperse. PO Aybar and PO Hoxha walked to crowd of 200 loud and highly intoxicated people. PO Aybar could smell the strong smell of marijuana, and saw numerous open containers of alcohol. PO Aybar began to instruct the crowd to walk away. Most people were complaint, and the group dispersed and began to walk home. There were also a large group of officers there from numerous commands, both plainclothes and uniformed. PO Aybar recalled PSA 7 and Borough Crime officers being present.

As the park began to peacefully clear out, PO Aybar heard a 10-85 come over the air about a block away, at which is a building adjoining the park. Because she did not have her memo book, she did not know when the 10-85 came over or the exact chronology of the following events. PO Aybar and PO Hoxha ran over to

At that location, PO Aybar observed a scene of chaos with numerous civilians fighting each other inside and outside the building, in the courtyard and in the lobby. There were numerous fights happening in the hallway and lobby. Out of 200 people total, PO Aybar estimated about 30 total were fighting, both males and females; they were extremely intoxicated. Civilians were throwing airmail down at officers in the courtyard from the windows.

An officer that PO Aybar did not recall informed her that an officer, PO Del Rosario, had been assaulted. PO Aybar did not recall any other officers on scene except for her supervisor, Sgt. Benintendo. Sgt. Benintendo spoke to PO Aybar outside the building in the midst of the chaos and ordered her, "If they refuse to disperse, bring them in." PO Aybar entered to undertake this order. When PO Aybar entered the lobby, she told everyone to go home and did not take further police action. PO Aybar initially said that PO Hoxha was with her the entire time (7:05 in the recording), and later said that PO Hoxha and her got separated as soon as they entered (14:07).

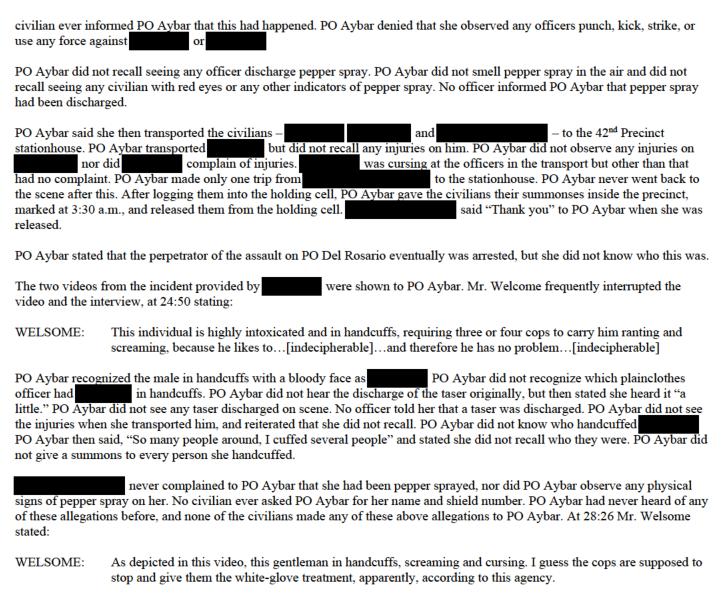
PO Aybar stated that she issued two civilians disorderly conduct summonses for refusing to go home; PO Aybar had observed these two civilians in the loud, crowded lobby. PO Aybar told the civilians they had to go home, and they replied "No we aren't" and stood in the same place and refused to leave (7:09 in the recording). Neither civilian ever said that they lived in the building. PO Aybar contradicted herself some time later, when she said they were not blocking the door at the same time.

| PO Aybar recognized a photograph of | and identified her as the civilian that PO Hoxha gave a summons to. PO Aybar |
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| did not recognize a photograph of | O Aybar issued a summons to while PO Hoxha issued a summons to |
| copies of the summonses were show | <u>n</u> to PO Aybar. The photographs of the civilians were shown to PO Aybar, and |
| she identified and | as the civilians she had issued summonses to. PO Aybar was asked questions |
| about the details and chronology of the summons | s' issuance, but because she had no memo book she could not answer in detail |
| about what had happened. PO Aybar could not re | ecall anything that was doing on scene. |
| PO Aybar's first observation of was t | hat officers were trying to go upstairs to chase the man who had assaulted PO De |
| | |
| Rosario, and blocking the door so | they could not pass. was not fighting or pushing, but standing there |

at this time. PO Aybar instructed

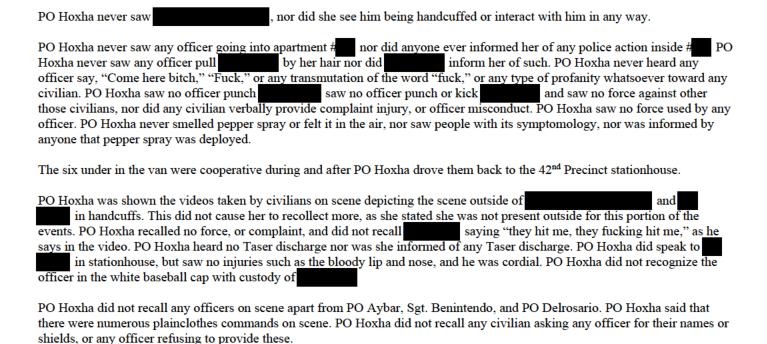
to leave the

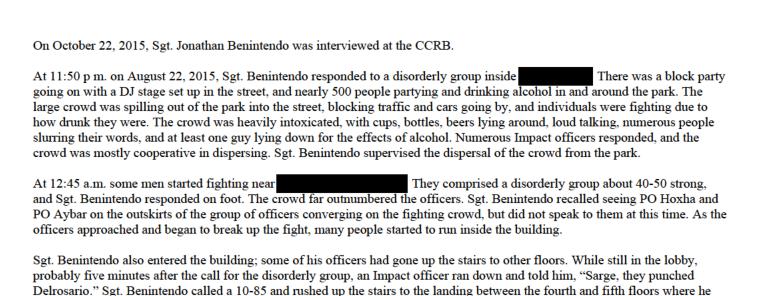
| threshold of the asked for his ide | door, and did not respond or move. PO Aybar did not recall if was intoxicated. PO Aybar entification on scene, and he provided it to her. |
|--|--|
| same time. PO anot know if other respond to PO PO recall if she saw | served it. PO Aybar stated that and blocked the door at different times, not at the |
| the perpetrator. moments that up the stairs, the unidentified off floor landing. P observe the figh | asked if she ever walked upstairs. PO Aybar then stated that she went through the door to the stairs to chase after PO Aybar could not describe at what point of the incident this occurred, but stated it happened between the and committed the offense and when they were handcuffed. When PO Aybar went was when and were blocking the door. PO Aybar went with numerous iters to the second floor to see where the perpetrator was. PO Aybar stated that a "fight" happened in the second-O Aybar did not know who was involved in the fight. PO Aybar did not take part in the fight. PO Aybar could at happening on the landing from the stairs, but did not know how it began. When asked about further context of ight, PO Aybar replied, "There were fights all over the place. I don't know." |
| At this point, 16 | 5:03, attorney Mr. Welsome interjected and the following conversation took place: |
| WELSOME: | I just want to say – at some point here – you basically have is a full-scale drunken riot at three o'clock in the morning in the Bronx. You're asking questions as if somehow the police are responsible, and I'm missing—What's the allegation exactly? What would you like them to do? |
| CONWAY: WELSOME: | We're setting up the chronological— Well then please get to the point. Because basically all I've heard so far is that a bunch of drunk people three o'clock in the morning decided to have a fight, and I'm still missing what NYPD's culpability is per your force, abuse of authority, discourtesy, I don't see any of it, offensive language. It's just meandering nonsense about a fight between a bunch of drunk people in the Bronx at three o'clock in the morning. |
| CONWAY: WELSOME: | We're not insinuating culpability. We need the full context. Well we're here today. The full context—Let's get to the point, please. Fascinating details, but utterly pointless as being the purview of your organization. |
| apartment doors PO Aybar did n did not recall ar did any supervis | ted the hallway from the landing, and saw numerous officers and civilians arguing. PO Aybar did not recall if any swere open. PO Aybar did not enter any apartment, and did not observe any other officers entering any apartment. The tot recall any officers entering any apartment and said, "We want this motherfucker," and "Come here bitch" and my officers using any profanity towards civilians. No supervisor ever told PO Aybar to go to apartment # nor sor or any officer mention any specific apartment where the perpetrators were. There were plainclothes officers in a PO Aybar did not know what command they belonged to; they were not the 42 nd Precinct Anti-Crime. |
| saw them. PO A stairs. There wa | O Aybar did not know if and were still downstairs, though that is where she last might have been going "back-and-forth" up and down the is more than one stairwell from the lobby to the second floor. At 16:03, in response to questions about more new Mr. Welcome again interjected: |
| WELSOME: | Again, I want to understand, the police are called to a complete riot at three o'clock in the morning in the Bronx, and your big concern is that they may have used the F-word. It's frankly laughable. Go on. |
| PO Aybar denie the moment in v | by the hair or take her to the ground. PO Aybar did not observe which was handcuffed. PO Aybar denied she saw any civilian taken to the ground. No officer or |



PO Aybar then confirmed that two other officers were helping transport people to the stationhouse. Arrests were still going on when PO Aybar left the scene, but she did not know who was getting arrested, and by which officers and of what commands.

On October 21, 2015, PO Merita Hoxha was interviewed at the CCRB. On August 23, 2015, PO Hoxha and PO Aybar were assigned to Foot Post #6 at in the Bronx. At midnight, There was a large crowd of over 100 people in having a block party. The crowd was intoxicated, talking loudly and cursing, and refusing to leave now that the park was closed. PO Hoxha did not recall how many other officers were on scene, but there were numerous Impact foot posts that responded. PO Hoxha ordered the crowd numerous times to disperse from the street, and they replied, "We are not going. The party is still going on." PO Hoxha slowly cleared the park with PO Aybar, directing the civilians to leave; the large crowd was blocking the vehicle traffic on In this group PO Hoxha saw two individuals she would later identify as and who she later would interact with and process summonses for. They were with a large group of other civilians and family they were with, but the crowd was chaotic and PO Hoxha could not describe who they were in detail. Both were refusing to leave, and standing in the and street not moving upon officers' orders. They were uncooperative, but not aggressive or cursing at the officers. The crowd eventually began to withdraw to the buildings on the east side of the park, and so at 1:30 a.m. PO Hoxha began walking back to her post. Before she could even get there, at 1:40 a.m. a 10-85 was called for officers to respond to which was very close by Nothing else came over in the 85 apart from a call for assistance. PO Hoxha and PO Aybar walked back across the park up towards Upon arriving at Hoxha observed over 50 civilians in front of an inside the building behaving disorderly. The civilians were "yelling and screaming" at the officers, but there was no physical confrontation, and PO Hoxha could not recall what they were saying. There were few officers arrived at the time but more kept coming; no airmail was coming down from the buildings. PO Hoxha observed Sgt. Benintendo standing outside the lobby, and she spoke to him. Sgt. Benintendo informed them that PO Delrosario had been assaulted by a civilian, and that the perpetrator was on one of the upper floors. PO Hoxha entered the lobby to investigate and respond; PO Hoxha was with PO Aybar all throughout the incident and were not separated. Upon entering the lobby, PO Hoxha observed a lot of civilians shouting and blocking officers from making it through by crowding the staircase and hallway. PO Hoxha pushed through the press and entered the staircase, walking up through the crowd of civilians and officers. Numerous civilians were in the staircase hindering the officers from ascending. On an unknown floor, PO Hoxha handcuffed a female who refused numerous orders to move, and she walked her down to the van. PO Hoxha did not recall her name, but it was not one of the civilian complainants from this CCRB case. After placing this female in the prisoner van, PO Hoxha never re-T no point did PO Hoxha leave the stairwell to go into the hallway where other officers were. PO Hoxha was shown photographs of the civilians in this case. PO Hoxha recognized a photograph of "might have been one of" the individuals blocking the staircase but could not recall. Another officer handcuffed PO Hoxha did not know who this was. PO Hoxha did not recall seeing any injuries on nor any of the injuries was "pleasant" and made no complaint when PO Hoxha processed him back in the portrayed in his photographs. stationhouse. PO Hoxha did not actually see the moment that was handcuffed, nor did she recall the officer who put in the van PO Hoxha did not recognize a photograph of PO Hoxha recognized as one of the civilian that she transported in the van and processed a summons for. PO Hoxha was the female she handcuffed. PO Hoxha did not see which officer handcuffed that she put her in the van, and did not know who did so. PO Hoxha did not speak to on scene. PO Hoxha did not recall if an officer informed her of what offense that had committed, but stated that she had observed the street before the 10-85 was called, and refusing PO Hoxha's multiple orders to leave. Next time saw her, she was in the van. PO Hoxha recognized a photograph of as being another individual who was in the van. PO Hoxha did not see the was handcuffed and did not see which officer gave him to process.





encountered PO Delrosario. PO Delrosario said the man who punched him ran into # Sgt. Benintendo asked if he needed medical care, and PO Delrosario said he did not. Sgt. Benintendo dispatched ESU to come to the building, and then Sgt. Benintendo advised Cpt. Brown to come to the scene.

For the next hour Sgt. Benintendo spoke to the perpetrators through the door of # as he awaited ESU to arrive. Sgt. Benintendo and Cpt. Brown directed officers to go to the roof to ensure that no one tried to escape out the window. ESU appeared and began a

dialogue to try and get them to open their door, but to no avail.

At 2:07 a.m. Cpt. Brown informed Sgt. Benintendo that there were six under downstairs for disorderly conduct, and to go down to verify. Sgt. Benintendo walked downstairs to speak with PO Hoxha and PO Aybar, who had six prisoners in their van. When Sgt. Benintendo got downstairs, the crowd had cooled down. There were numerous officers on scene from various commands, including bordering precincts and borough officers, and many plainclothes officers. Sgt. Benintendo verified the arrests, and

walked back up the stairs. Sgt. Benintendo did not speak to any of the prisoners. Sgt. Benintendo did not go to # or the third floor, nor was he aware of any goings-on with the third floor. Apart from this, Sgt. Benintendo did not leave the fifth floor. At 2:28 a m. the door was breached by ESU, and Sgt. Benintendo was present to verify arrests.

Sgt. Benintendo filled out the UF-49 for this incident. He confirmed that the officers he indicated as being present were a small fraction of officers present at the scene.

Sgt. Benintendo was shown the videos of the scene taken by civilians. Sgt. Benintendo was not present for this portion of the scene, and did not observe nor was he informed that any officer had discharged a taser or pepper spray at any point on scene. Sgt. Benintendo did not recognize the officer in the white baseball cap with custody of

On December 3, 2015, Cpt. Andre Brown was interviewed at the CCRB.

On August 23, 2015, Cpt. Brown was Patrol Borough Bronx duty captain, which consists of going around and responding to incidents within precincts with no dedicated CO. Sometime after midnight on August 23, 2015, Cpt. Brown received a phone call from the Bronx Wheel advising him that there was a barricaded perpetrator at called. Cpt. Brown drove his unmarked solo car to to see the scene. When Cpt. Brown arrived on scene, there was a large crowd of civilians, and numerous officers from all over the borough, both uniformed and plainclothes. Sgt. Benintendo had called several 10-85s, so officers had continued to come to the location from various precincts and commands. The crowd was calm, and there was no active confrontation between officers and civilians when Cpt. Brown arrived.

Cpt. Brown entered the building and walked up the stairwell. The stairwell was calm, and there was no police activity occurring. Cpt. Brown passed the third floor, and there was no activity on the third floor. When Cpt. Brown reached the fifth floor, he observed ESU already on scene and numerous officers outside of the including Sgt. Benintendo. Sgt. Benintendo informed Cpt. Brown that an officer had been assaulted while trying to break up an illegal gathering, and the perpetrator ran into the building and barricaded himself.

Cpt. Brown did not give any orders, but observed the scene. ESU was in a dialogue with the occupants of the apartment. Eventually the occupants opened the door voluntarily, but were too afraid to come out. The occupants advised ESU that they could come in, so ESU made an entry and removed all the people from the apartment. One arrest was made – the person who had assaulted the officer – and the rest were released. Cpt. Brown followed the defendant downstairs to the van and then later to the 42^{nd} Precinct stationhouse, before resuming his duties.

Cpt. Brown did not visit the third floor, nor was he aware of any activity on the third floor. Cpt. Brown did not authorize any entries into any location on the third floor, specifically # Cpt. Brown was shown the SPRINT report in which an unknown sector advises # but did not know what this pertained to, and did not hear it come over the radio. Cpt. Brown said the first time he heard of anything happening on # was this interview. Cpt. Brown said his sole concern was #5C.

Cpt. Brown was shown the cell phone video footage of the incident. Cpt. Brown did not recognize the officer and did not recognize any part of this scene.

